



Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

OTTAWA-CARLETON STANDARD CONDOMINIUM CORPORATION NO. 1106

Applicant

-and-

**CLARIDGE HOMES (ALBERT) INC. AND CLARIDGE HOMES (ALBERT) LIMITED
PARTNERSHIP**

Respondents

NOTICE OF APPLICATION

APPLICATION UNDER Section 113 of the *Condominium Act, 1998*, SO 1998, c 19

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing (*choose one of the following*)

- ☐ In person
- ☐ By telephone conference
- ☒ By video conference

at the following location:

Ottawa Courthouse, 161 Elgin St., Ottawa, ON K2P 2K1, on a date and time to be set by the Registrar.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules

of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date Issued by

Local registrar

Address of court office:

Ottawa Courthouse
161 Elgin Street
Ottawa, ON K2P 2K1

TO: Claridge Homes (Albert) Inc.
505 Preston Street, 2nd Floor
Ottawa, ON, K1S 4N7

AND TO: Claridge Homes (Albert) Limited Partnership
505 Preston Street, 2nd Floor
Ottawa, ON, K1S 4N7

APPLICATION

1. THE APPLICANT MAKES AN APPLICATION FOR:

- a. An Order that the Shared Facilities Agreement between the parties, dated February 1, 2024, be terminated and replaced with a new agreement that is reasonably acceptable to the parties.
- b. An Order that the parties be required to enter into reasonable, good-faith negotiations in order to arrive at a new Shared Facilities Agreement. Failing such, or if the parties are not able to come to an agreement with reasonable haste, the mandatory mediation and arbitration provisions in Section 132 of the *Condominium Act, 1998* will apply to the establishment of the required new agreement.
- c. Such further or other relief as this Honourable Court may deem just.

2. THE GROUNDS FOR THE APPLICATION ARE:

- a. The Applicant, Ottawa Carleton Standard Condominium Corporation No. 1106 (“OCSCC 1106” or the “Corporation”), is a 27-story high rise residential tower condominium, containing 266 dwelling units, 156 parking units and 278 storage units. The condominium corporation was created on January 1, 2024, by registration of its Declaration and Description in the Land Titles Office in Ottawa, Ontario.
- b. The Respondent, Claridge Homes (Albert) Inc. is a duly incorporated company under the laws of the Province of Ontario with its head office located in Ottawa, Ontario.
- c. Claridge Homes (Albert) Limited Partnership (“Claridge Homes (Albert)”) is a limited partnership under the laws of the Province of Ontario with its head office located in Ottawa,

Ontario.

- d. OCSCC 1106 was turned over” (by way of the holding of a turnover meeting pursuant to Section 43 of the *Condominium Act, 1998*) on May 16, 2024. Prior to that time, the condominium corporation was controlled by Claridge Homes (Moon) Inc., the Corporation’s declarant (in that, prior to turnover, representatives of Claridge Homes (Moon) Inc. comprised the condominium’s Board of Directors). During the “pre-turnover” period, Claridge Homes (Moon) Inc. prepared, executed and registered an agreement between OCSCC 1106 and Claridge Homes (Albert) Inc. and Claridge Homes (Albert) Limited Partnership. The agreement (herein called the “Shared Facilities Agreement”) is dated February 1, 2024, and was registered on February 12, 2024, as Instrument No. OC2669025. The Shared Facilities Agreement deals with various rights and responsibilities as between OCSCC 1106, Claridge Homes (Albert) Inc. and Claridge Homes (Albert) Limited Partnership, in relation to the property, including access and easement rights over one another’s’ properties, and associated cost sharing.
- e. The provisions of the Shared Facilities Agreement are incomplete, unclear, unreasonable, and oppressive to OCSCC 1106 and its owners.
- f. Furthermore, the Disclosure Statement prepared by Claridge Homes (Moon) Inc., pursuant to Section 72 of the *Condominium Act, 1998*, failed to clearly or adequately disclose the provisions of the Shared Facilities Agreement to prospective purchasers.
- g. Section 113 of the *Condominium Act, 1998* states as follows:

Mutual Use Agreements

If a corporation and a person have entered into an agreement for the mutual use, provision or maintenance or the cost-sharing of facilities or services before the owners elected a new board at a meeting held in accordance with subsection 43 (1), any party to the agreement may, within 12 months following the election, make an application to the Superior Court of Justice for an order under subsection (3).

Non-application

(2) Subsection (1) does not apply to a telecommunications agreement within the meaning of section 22.

Court order

(3) The court may make an order amending or terminating the agreement or any of its provisions or may make any other order that the court deems necessary if it is satisfied that,

(a) the disclosure statement did not clearly and adequately disclose the provisions of the agreement; and

(b) the agreement or any of its provisions produces a result that is oppressive or unconscionably prejudicial to the corporation or any of the owners.

3. In support of this application, the Applicant pleads and relies on:

- i. Rule 14.05(2) and 14.05(3)(h) of the *Rules of Civil Procedure*, RRO 1990, Reg 194;
- ii. The provisions of the *Condominium Act, 1998* SO 1998, C 19, including sections 72 and 113;
- iii. The Shared Facilities Agreement;
- iv. The Declaration of OCSCC 1106.

4. THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE
HEARING OF THE APPLICATION:

- a. The Affidavit of Evan Lloyd, together with attached exhibits; and
- b. Such further and other documentary evidence as counsel may advise and as this
Honourable Court may permit.

Date: May 12, 2025

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**OTTAWA CARLETON STANDARD CONDOMINIUM
CORPORATION No. 1106**
Applicant

-and-

**CLARIDGE HOMES (ALBERT) INC. AND CLARIDGE HOMES
(ALBERT) LIMITED PARTNERSHIP**
Respondents

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PROCEEDING COMMENCED
AT THE CITY OF OTTAWA

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